

The New Newark Arena

AFFIRMATIVE ACTION/EQUAL OPPORTUNITY PROGRAM

Purpose

The purpose of this Affirmative Action and Equal Opportunity Program is to assure that minority and women-owned businesses as well as minority and female crafts persons are afforded every opportunity to participate in the construction of the Newark Arena. Every effort will be made by Devils Hockey Team and its construction management team, Hunt/Bovis Joint Venture to achieve the goals set forth below for participation by historically disadvantaged minority and woman businesses and workers.

Local, county, regional, state and federal goals for the contracting of minority and women-owned businesses, as well as the employment of minority and women in all trades and contract groups are incorporated in this plan. In every case where there is a difference in requirements among levels of government, the most ambitious goals are selected.

The goals provide that priority be given, wherever possible and feasible, to workers residing in certain geographic locations. In order of preference: Newark~ Essex County, Northern New Jersey, New Jersey and outside of New Jersey. These are: geographic preference will also constitute an added criterion in the selection of qualified businesses.

The Affirmative Action/Equal Employment Opportunity goals for Newark Arena have been established prior to the bid process so that an appropriate review of each contractor's track record with respect to meeting similar goals can be ascertained. Each trade contract group will be considered separately for the purpose of achieving the goals. In the event that a goal for a specific group is not realized~ then evidence substantiating the efforts made to achieve the goal shall be documented by Hunt/Bovis and reviewed and confirmed by Henningburg Associates.

Goals

For business, the goal for participation of minority firms shall be twenty-five percent of the total contract amount for the project and seven percent (7%) of the total contract amount shall be performed by woman-owned firms. In the event a woman-owned minority firm is awarded a contract, the contract amount will be categorized in the group that will be best affected by such placement.

For employment, the minority goals for laborer hours worked shall be percent (50%) of total laborer hours and shall be thirty-three percent (33%) of skilled trades/craftspersons. Women are included within these stated percentages.

In order for a minority and/or woman-owned business to be eligible to participate in the Program, the firm must be pre-qualified. Pre-qualification procedures, consistent with standard construction industry practice, will be implemented to identify and include as part of the qualified pool of businesses those firms that have been pre-qualified by the Port Authority of New York and New Jersey. All other firms will be required to complete a pre-qualification informational statement. Assistance will be given to those firms wishing to be included on the pre-qualified Bidder's List.

Advertisements will be placed in The Star-Ledger, appropriate trade journals and with the Mayor's Office of Affirmative Action in order to solicit additional firms. The advertisements are intended to inform the minority and female community that Devils/Newark Arena seeks to include such firms who may have interest in being pre-qualified for bid submittal.

All respondents will be directed to the Hunt/ Bovis Purchasing Department in order to obtain the prequalification material,

Upon receipt of completed pre-qualification statement, the following criteria will be used by Hunt/ Bovis to evaluate the firm's history and ability to perform the work in the stated trade:

- 14 Contractor must demonstrate approximately three years of related experience on projects of similar size and/or complexity.
2. Contractor must demonstrate ability to provide quality work,
3. Contractor must demonstrate ability to maintain adequate insurance coverage's and limits,
4. Contractor must have an established Affirmative Action Program.
5. Contractor must demonstrate ability to ensure project labor harmony

The list will be maintained according to trade/contract group. Devils/Newark Arena will approve the pre-qualified Bidder's List prior to the bid process. It is intended, whenever possible, that no less than three (3) minority business enterprise (MBE)/woman business enterprise (WBE) firms will be pre-qualified per trade category. Firms may be awarded all or a portion of the work,

In those instances in which a pre-qualified MBE/WBE firms contract directly with majority firms for a portion of the trade work, it is required that Hunt/Bovis be afforded protection in the event of delimit via a performance and payment

bond obtained from the majority firm. Therefore, the ability of a MBE/WBE to obtain a bond will not be a pre-qualification criteria.

D. Bidding Process

is II will utilize its Master List of Trade Contractors, to establish a Bidder's List of trade contractors which will be submitted and approved by Devils/Heningburg Assci.. Pre-qualified firms shall receive, along with the Invitation to Bid and accompanying documents, a copy of the Affirmative Action goals (uniform across all trades). In addition a list of pre-qualified MBE/WBE firms will be given to each bidder. Each trade contractor's bid must demonstrate that the Affirmative Action goals shall be achieved part of their work plan. The scope of these proposed efforts will be

D, Bidding Process (cont'd)

carefully analyzed for their intent to meet or exceed these goals and will be a factor in the determination of the award recommendation,

Labor costs included in all bids must reflect prevailing/union wages, benefits and appropriate fringes.

The Invitations to Bid and Purchase Requisitions shall include the following language:

Devils/Hunt/Bovis reserve the right to reject any or all bids or to discuss modifications with any bidders at any time during the bid or bid review process. Any bidder attempting to contact government officials elected or appointed) or Devils/Hunt/bBovis and staff in an effort to influence the selection process may be immediately disqualifie4.

Bidders must submit with their bid the name(s) of MBE/WBE firms with whom, if awarded a contract, they will enter into contracts for a portion of the work not less than 25% MBE's and 7% WBE's of the contract value (which shall be spelled out in the bid.

The stated percentages in this plan are goals and are a requirement of participation in this project.

Failure to submit a bid proposal that is responsive to these goals may result in the rejection of that bid proposal . Further, failure to implement these goals during

the construction phase will be considered a condition of default and may result in the termination of the defaulting trade contractor.

Should the trade contractor prefer to utilize the services of an **MBE/WBE** firm not found on Devils/Hunt/Bovis and pre-qualified Bidder's List, the firm's information must be submitted to and reviewed by Devils/Hunt/Bovis prior to the contractor's submittal of a bid proposal. It will be verified by Hunt/Bovis and approved by Gus Heningburg Associates for Devils. Devils/Hunt/Bovis determination will be documented and filed,

Where possible, The Devils and Hunt/Bovis will endeavor to award trade contracts directly to MBE/WBE firms.

Internal Monitoring

Every effort will be made throughout the project to achieve the goals and objectives outlined in this Program.

On-Site Affirmative Action --AA-- Coordinator

The Devils/Hunt Bovis will hire and retain on its staff for the life of the project a full time AA Coordinator. This person will be responsible for the implementation, administration, evaluation and monitoring of this Affirmative Action Program and all Equal Employment requirements as designated by the City of Newark Housing and Redevelopment Authority..

The on-site AA Coordinator will meet with each Trade Contractor and advise the contractor of the Affirmative Action Program and the utilization of forms. The forms are to be completed by the Trade Contractor listing 1st, 2nd, 3rd tier subcontractors and submitted to the AA Coordinator before work begins in order to ascertain that the contractor's plan is realistic and consistent with this Program. The Trade Contractor shall, on a daily basis, complete a log indicating the deployment of personnel and the use of sub-contractors. It will be the responsibility of the on-site AA Coordinator to verify the reported information and forward a copy of the monthly report with the application for payment.

Forms (attached)

MBE/WBE Participation

- Hunt/Bovis Initial Minority/ Woman-Owned Business Participation Utilization Form (to be completed before work begins)
- Hunt/Bovis Monthly Trade Contractor/Vendors information Sheet (to accompany monthly payment requisition
Daily Construction Report

Minority/Female Worker Utilization

- Daily manpower report pick-up weekly
Once completed, the information will be input into a spreadsheet and will provide all the necessary information required by owners and agencies having a relationship to this project

Should a successful bidder fail to comply with this Program, The Devils/Hunt Bovis and may consider the trade contract as being in default, and subject to termination, interim steps such as withholding progress payments may be implemented until the Trade Contractor is in conformance with this Program.

The AA coordinator will also meet regularly with trade Union representatives to assure that the Unions understand and participate in achieving tftt-c2pployment goals of the Program

Cash Flow

Devils/Hunt/Bovis reserve the right to grant modified retain ages to MBE/WBE firms. Retain ages may be reduced to an agreed upon lump sum at certain project milestones. All such recommendations will be made by Hunt/Bovis to Devils for consideration, on a case by case basis~ also, the payment schedule may be accelerated to address payroll requirements.

Bonding

It is understood that some MBE/WBE firms may not be able to secure performance bonds. This will not prevent the MBE/WBE firms from being part of a contract. If a MBE/WBE cannot secure bonding individually and the MBE/WBE firm is a subcontractor to a prime contractor, the successful prime contract bidder may provide the appropriate bonding to afford appropriate protection in the event of default by the prime or its subcontractors. In some cases, depending on the contract dollar amounts, Devils/Hunt/Bovis will consider

awarding direct contracts to MBE/WBE firms and, if appropriate, alternatives to bonding may be considered.

Workforce Goals for all Trades

The following language will be included in all construction documents on the Newark Arena Project.

This language outlines the goals for minority and female craftspeople's performing work for both

Hunt/Bovis and the Trade Contractors. These goals will be clearly conveyed to the Trade

Contractors via the contract documents. The successful bidders will also make sure that all

companies under their employ meet these goals in all trade categories.

"The successful bidder will maintain an on site workforce consisting of at least ____ minority worker performing laborers work and at least ____ skilled trade work. These percentages include the use of female workers; In addition, every effort will be extended to utilize Newark residents?

The stated percentages in this plan are goals and will be a requirement for participation on the Newark Arena project.

Failure to implement these goals during the construction phase will be considered a condition of default and may result in the termination of the defaulting Trade Contractor.

In order to meet on-site labor goals, the prime contractor (and all subcontractors) should contact the appropriate affiliated union. If the union cannot supply minority workers to meet percentages, then the contractor will contact Heningburg Associates, Inc. at (201) 624-6715 and the Newark Labor Force Pool at (201) 733-6394. Heningburg Associates and/or the Newark Labor Force Pool will provide skilled minority workers to meet goals determine that goals cannot be met for that trade

"Any bidder attempting to contact governmental officials (elected or appointed) in an effort to influence the selection process may be immediately disqualified."